

Proposed Rules

Federal Register

Vol. 70, No. 22

Thursday, February 3, 2005

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chap. I

[Docket No. 05–01]

FEDERAL RESERVE SYSTEM

12 CFR Chap. II

[Docket No. OP–1220]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chap. III

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Chap. V

[No. 2005–02]

Request for Burden Reduction Recommendations; Money Laundering, Safety and Soundness, and Securities Rules; Economic Growth and Regulatory Paperwork Reduction Act of 1996 Review

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice of regulatory review; request for comments.

SUMMARY: The OCC, Board, FDIC, and OTS (“we” or “the Agencies”) are reviewing our regulations to identify outdated, unnecessary, or unduly burdensome regulatory requirements pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). Today, we request your comments and suggestions on ways to reduce burden in rules we have categorized as Money Laundering, Safety and Soundness, and Securities.

All comments are welcome. We specifically invite comment on the following issues: Whether statutory changes are needed; whether the regulations contain requirements that are not needed to serve the purposes of the statutes they implement; the extent to which the regulations may adversely affect competition; whether the cost of compliance associated with reporting, recordkeeping, and disclosure requirements, particularly on small institutions, is justified; whether any regulatory requirements are inconsistent or redundant; and whether any regulations are unclear.

We will analyze the comments received and propose burden-reducing changes to our regulations where appropriate. Some of your suggestions for burden reduction might require legislative changes. Where legislative changes would be required, we will consider your suggestions in recommending appropriate changes to Congress.

DATES: Written comments must be received no later than May 4, 2005.

ADDRESSES: You may submit comments by any of the following methods:

EGRPRA Web site: <http://www.EGRPRA.gov>.

- Comments submitted at the Agencies’ joint Web site will automatically be distributed to all the Agencies. Comments received at the EGRPRA Web site and by other means will be posted on the Web site to the extent possible.

Individual agency addresses: You are also welcome to submit comments to the Agencies at the following contact points (due to delays in paper mail delivery in the Washington area, commenters may prefer to submit their comments by alternative means):

OCC: You may submit comments, identified by [docket 05–01], by any of the following methods:

- *E-mail:* regs.comments@occ.treas.gov. Include [docket 05–01] in the subject line of the message.

- *Fax:* (202) 874–4448.
- *Mail:* Public Information Room, Office of the Comptroller of the Currency, 250 E Street, SW., Mailstop 1–5, Washington, DC 20219; Attention: Docket ##.

Public Inspection: You may inspect and photocopy comments at the Public Information Room. You can make an

appointment to inspect the comments by calling (202) 874–5043.

Board: You may submit comments, identified by Docket Number OP–1220, by any of the following methods:

- *Agency Web site:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

- *Fax:* (202) 452–3819 or (202) 452–3102.

- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board’s Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>, as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board’s Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, identified as EGRPRA burden reduction comments, by any of the following methods:

- <http://www.fdic.gov/regulations/laws/federal/propose.html>.

- *E-mail:* comments@fdic.gov.

Include “EGRPRA burden reduction comment” in the subject line of the message.

- *Mail:* Robert E. Feldman, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: You may inspect comments at the FDIC Public Information Center, Room 100, 801 17th Street, NW., between 9 a.m. and 4:30 p.m. on business days.

OTS: You may submit comments, identified by "No. 2005-02." by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **E-Mail:** regs.comments@ots.treas.gov. Include "No. 2005-02" in the subject line of the message, and provide your name and telephone number.

- **Fax:** (202) 906-6518.

- **Mail:** Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

- **Hand Delivery:** Comments may be hand delivered to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office.

Public Inspection: OTS will post comments and the related index on the OTS Internet site at <http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1>. In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906-5922, send an e-mail to public.info@ots.treas.gov, or send a fax to (202) 906-7755. (Please identify the material you would like to inspect to assist us in serving you.) OTS schedules appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date OTS receives a request.

FOR FURTHER INFORMATION CONTACT:
OCC:

- **Stuart Feldstein**, Assistant Director, Legislative and Regulatory Activities Division, (202) 874-5090.

- **Heidi Thomas**, Special Counsel, Legislative and Regulatory Activities Division, (202) 874-5090.

- **Lee Walzer**, Counsel, Legislative and Regulatory Activities Division, (202) 874-5090.

Board:

- **Patricia A. Robinson**, Managing Senior Counsel, Legal Division, (202) 452-3005.

- **Michael J. O'Rourke**, Counsel, Legal Division, (202) 452-3288.

- **John C. Wood**, Counsel, Division of Consumer and Community Affairs, (202) 452-2412.

- **Kevin H. Wilson**, Supervisory Financial Analyst, Division of Banking Supervision and Regulation, (202) 452-2362.

- For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

FDIC:

- **Claude A. Rollin**, Special Assistant to the Vice Chairman, (202) 898-8741.

- **Steven D. Fritts**, Associate Director, Division of Supervision and Consumer Protection, (202) 898-3723.

- **Ruth R. Amberg**, Senior Counsel, Legal Division, (202) 898-3736.

- **Thomas Nixon**, Counsel, Legal Division, (202) 898-8766.

OTS:

- **Glenn Gimble**, Senior Project Manager, Thrift Policy, Supervision Policy, (202) 906-7158.

- **Josephine Battle**, Program Analyst, Thrift Policy, Supervision Policy, (202) 906-6870.

- **Karen Osterloh**, Special Counsel, Regulations and Legislation Division, Chief Counsel's Office, (202) 906-6639.

SUPPLEMENTARY INFORMATION:

I. Overview of the EGRPRA Review and the Steps Taken so Far

The Agencies¹ are asking for your comments and suggestions on ways in which we can reduce regulatory burdens consistent with our statutory obligations. Today, we request your input to help us identify which regulatory requirements in three categories—Money Laundering, Safety and Soundness, and Securities—are outdated, unnecessary, or unduly burdensome. We list the rules in these categories in a chart at the end of this notice. Please send us your recommendations at our Web site, <http://www.EGRPRA.gov>, or to one of the listed addresses.

Today's request for comment is the fourth notice in our multi-year review of regulations for burden reduction required by section 2222 of EGRPRA.² We described the EGRPRA review's requirements in our first EGRPRA notice. In summary, EGRPRA requires us to:

- Categorize our regulations by type.
- Publish the regulations by category to request comments on which regulations contain requirements that are: outdated, unnecessary, or unduly burdensome.
- Publish a summary of those comments.
- Eliminate unnecessary regulations to the extent appropriate.

¹ The National Credit Union Administration has participated in planning the EGRPRA review but has issued, and will issue, requests for comment separately.

² Public Law 104-208, Sept. 30, 1996, 12 U.S.C. 3311. We published our first notice in the *Federal Register* on June 16, 2003, at 68 FR 35589; our second notice on January 21, 2004, at 69 FR 2852; and our third notice on July 20, 2004, at 69 FR 43347. You may view the notices at our Web site, <http://www.EGRPRA.gov>.

- Report to Congress: summarizing the significant issues raised and their relative merits, and analyzing whether legislative change is required to reduce burden.

The first publication cycle must be complete by September 2006.

We have identified 13 categories of rules to implement our EGRPRA review. The categories are: Applications and Reporting; Banking Operations; Capital; Community Reinvestment Act; Consumer Protection: Lending Related Rules; Consumer Protection: Account/Deposit Relationships and Miscellaneous Consumer Rules; Directors, Officers and Employees; International Operations; Money Laundering; Powers and Activities; Rules of Procedure; Safety and Soundness; and Securities. You may see the categories and the rules placed within them at our Web site, <http://www.EGRPRA.gov>.

We previously requested public comment about possible burden reduction in five categories of rules. Our June 16, 2003, notice requested comment on three categories: Applications and Reporting, Powers and Activities, and International Operations. Our January 21, 2004, notice requested comment on Consumer Protection: Lending Related Rules. Our July 20, 2004, notice requested comment on Consumer Protection: Account/Deposit Relationships and Miscellaneous Consumer Rules. Today, we request comment on rules related to Money Laundering, Safety and Soundness, and Securities.

We plan to continue to publish one or more categories of rules approximately every six months between 2003 and 2006 and provide a 90-day comment period for each publication. As noted earlier, we must publish all our covered categories of rules for comment and review them by the end of September 2006.

In addition to soliciting written comments, we held banker outreach meetings in Orlando, St. Louis, Denver, San Francisco, New York City, Nashville, Seattle, and Chicago to hear directly from the industry about ways the Agencies could reduce regulatory burden. More than 400 representatives from the industry have attended the outreach meetings. The Agencies have also held three outreach meetings with over 100 participants for representatives of consumer and community groups to obtain their input on regulatory burden reduction. The consumer meetings were held in Arlington, Virginia; San Francisco; and Chicago. These meetings have helped focus our regulatory burden reduction efforts. We anticipate holding

additional outreach events this year. You may learn more about the meetings and related recommendations at our EGRPRA Web site, <http://www.EGRPRA.gov>.

We received 19 comments in response to the first notice, about 560 to the second notice, and over 100 to the third notice. The Agencies appreciate the response to our notices and the outreach meetings. The written comments and remarks at the meetings came from individuals, banks, savings associations, holding companies, industry trade groups, and consumer and community groups. You may view the comments at our EGRPRA Web site, <http://www.EGRPRA.gov>. We are actively reviewing the feedback received about specific ways to reduce regulatory burden, as well as conducting our own analyses.

In addition, Congress considered various legislative proposals to reduce burden on the financial services industry in 2004. Representatives of the Agencies and industry leaders testified before congressional committees about these legislative reform proposals and other ideas for reducing burden on the financial services industry.³ We will continue to post information about legislative and regulatory reform efforts on our Web site.

II. Request for Comment on Money Laundering, Safety and Soundness, and Securities Rules

Today, we are asking the public to identify ways in which the rules related

to Money Laundering, Safety and Soundness, and Securities may be outdated, unnecessary, or unduly burdensome. As shown on the chart at the end of this notice, there are 28 regulations in these categories. The Agencies note that other non-banking agencies, such as the Department of Treasury under the Bank Secrecy Act, have issued rules within these three categories that apply to our regulated institutions. Some of the rules of these other agencies are beyond our jurisdiction. However, to the extent that we receive comments raising significant issues about these related rules, we will identify the issues in our Report to Congress and make those comments available to the appropriate agencies.

We encourage comments that address not only individual rules or requirements but also pertain to certain product lines. For example, in the case of an institution's securities activities, are any of the reporting, recordkeeping or other requirements of one regulation inconsistent with or duplicative of the requirements under another regulation? A product line approach is consistent with EGRPRA's focus on how rules interact, and may be especially helpful in exposing redundant or potentially inconsistent regulatory requirements. We recognize that commenters using a product line approach may want to make recommendations about rules that are not in our current request for comment. They should do so since we designed the EGRPRA categories to stimulate creative approaches rather than limiting them.

Specific issues to consider. While all comments are welcome, we specifically invite comment on the following issues:

A. Need for Statutory Change. (1) Do any statutory requirements underlying the rules impose unnecessary, redundant, conflicting or unduly burdensome requirements? (2) Are there less burdensome alternatives?

B. Need and Purpose of the Regulations. (1) Are the regulations consistent with the purposes of the statutes that they implement? (2) Have circumstances changed so that a rule is

no longer necessary? (3) Do changes in the financial products and services offered to consumers suggest a need to revise certain regulations (or statutes)? (4) Do any of the regulations impose compliance burdens not required by the statutes they implement?

C. General Approach/Flexibility. (1) Would a different general approach to regulating achieve statutory goals with less burden? (2) Do any of these rules impose unnecessarily inflexible requirements?

D. Effect of the Regulations on Competition. Do any of the regulations or statutes create competitive disadvantages for insured depository institutions compared to the rest of the financial services industry or competitive disadvantages for one type of insured depository institution over another?

E. Reporting, Recordkeeping, and Disclosure Requirements. (1) Which reporting, recordkeeping, or disclosure requirements impose the most compliance burdens? (2) Are any of the reporting or recordkeeping requirements unnecessary to demonstrate compliance with the law?

F. Consistency and Redundancy. (1) Are any of the requirements under one regulation inconsistent with or duplicative of requirements under another regulation? (2) If so, are the inconsistencies not warranted by the purposes of the regulations?

G. Clarity. Are any of the regulations drafted unclearly?

H. Burden on Small Insured Institutions. We have particular interest in minimizing burden on small insured institutions (those with assets of \$150 million or less). Are there appropriate ways to amend these rules to minimize adverse economic impact on small insured institutions?

The Agencies appreciate the efforts of all interested parties to help us eliminate outdated, unnecessary, or unduly burdensome regulatory requirements.

BILLING CODE 4810-33-P; 6210-01-P; 6714-01-P; 6720-01-P

³ On May 12, 2004, FDIC Vice Chairman John M. Reich testified about burden reduction before the Subcommittee on Financial Institutions and Consumer Credit of the House Committee on Financial Services. On June 22, agency and industry leaders testified about regulatory reform before the Senate Committee on Banking, Housing and Urban Affairs. Agency leaders included: Federal Reserve Board Governor Donald Kohn, FDIC Vice Chairman John M. Reich, NCUA Chairman JoAnn Johnson, OCC First Senior Deputy Comptroller and Chief Counsel Julie L. Williams, and OTS Chief Counsel John E. Bowman. On August 27, Senator Mike Crapo, who is leading a financial services regulatory reform effort for the Senate Banking Committee, released a matrix detailing more than 130 burden reduction proposals that were made in the June 2004 hearing.

**Rules for which we are requesting comment now:
Money Laundering, Safety and Soundness, and Securities**

Subject	National Banks	State Member Banks	State Non-Member Banks	Thriffs	Holding Companies Bank ⁴ ----- Thrift
Money Laundering					
Interagency Regulations					
Bank Secrecy Act Compliance	12 CFR Part 21, Subpart C	12 CFR 208.63 [Reg. H]	12 CFR Part 326, Subpart B	12 CFR 563.177	
Reports of Crimes or Suspected Crimes	12 CFR Part 21, Subpart B	12 CFR 208.62 [Reg. H]	12 CFR Part 353	12 CFR 563.180(d)	12 CFR 225.4(f) -----
Safety and Soundness					
Interagency Regulations					
Appraisal Standards for Federally Related Transactions	12 CFR Part 34, Subpart C	12 CFR 208.50 [Reg. H]; 12 CFR Part 225, Subpart G [Reg. Y]	12 CFR Part 323	12 CFR Part 564	12 CFR Part 225, Subpart G [Reg. Y] -----
Frequency of Safety and Soundness Examination	12 CFR 4.6-.7	12 CFR 208.64	12 CFR 337.12	12 CFR 563.171; See also 12 CFR 563.170	
Lending Limits	12 CFR Part 32			12 CFR 560.93	
Real Estate Lending Standards	12 CFR Part 34, Subpart D	12 CFR Part 208, Subpart E and App. C [Reg. H]	12 CFR Part 365	12 CFR 560.100; 12 CFR 563.101	
Security Devices and Procedures	12 CFR Part 21, Subpart A	12 CFR 208.61 [Reg. H]	12 CFR Part 326, Subpart A	12 CFR Part 568	

⁴ Foreign banking organizations that conduct banking operations in the U.S., either directly through branches and agencies or indirectly through U.S. bank subsidiaries or commercial lending company subsidiaries, generally are subject to the same regulatory regime as domestic bank holding companies.

Subject	National Banks	State Member Banks	State Non-Member Banks	Thrifts	Holding Companies Bank ⁴ ----- Thrift
Safety and Soundness (continued)					
Interagency Regulations (continued)					
Standards for Safety and Soundness	12 CFR Part 30	12 CFR Part 208, App. D-1 [Reg. H]	12 CFR Part 364	12 CFR Part 570	
Transactions with Affiliates	12 CFR Part 223 [Reg. W]; 12 CFR Part 31	12 CFR Part 223 [Reg. W]		12 CFR 563.41	
OCC Regulations					
Other Real Estate Owned	12 CFR Part 34, Subpart E				
Board Regulations					
Extensions of Credit by Federal Reserve Banks	12 CFR Part 201 [Reg. A]	12 CFR Part 201 [Reg. A]	12 CFR Part 201 [Reg. A]	12 CFR Part 201 [Reg. A]	
Limitations on Interbank Liabilities	12 CFR Part 206 [Reg. F]	12 CFR Part 206 [Reg. F]	12 CFR Part 206 [Reg. F]	12 CFR Part 206 [Reg. F]	
FDIC Regulations					
Annual Independent Audits and Reporting Requirements	12 CFR Part 363	12 CFR Part 363	12 CFR Part 363	12 CFR Part 363; <u>See also</u> OTS: 12 CFR 562.4	
Unsafe and Unsound Banking Practices (Standby Letters of Credit and Brokered Deposits)			12 CFR 337.2; 12 CFR 337.6		
OTS Regulations					
Audits of Savings Associations and Savings Association Holding Companies				12 CFR 562.4; <u>See also</u> FDIC: 12 CFR Part 363	----- 12 CFR 562.4
Financial Management Policies				12 CFR Part 563, Subpart F	----- 12 CFR 563.170

Subject	National Banks	State Member Banks	State Non-Member Banks	Thriffs	Holding Companies Bank ⁴ ----- Thrift
Safety and Soundness (continued)					
OTS Regulations (continued)					
Lending and Investment – Additional Safety and Soundness Limitations				12 CFR Part 560	
Securities					
Interagency Regulations					
Banks as Registered Clearing Agencies	12 CFR 19.135	12 CFR 208.32-33 [Reg. H]	12 CFR Part 308, Subpart S		
Banks as Securities Transfer Agents	12 CFR 9.20	12 CFR 208.31 [Reg. H]	12 CFR Part 341		
Government Securities Sales Practices	12 CFR Part 13	12 CFR 208.37 [Reg. H]	12 CFR Part 368		
Recordkeeping and Confirmation of Securities Transactions Effected by Banks	12 CFR Part 12	12 CFR 208.34 [Reg. H]	12 CFR Part 344	12 CFR Part 551	
Reporting Requirements for Reported Securities Under the Securities Exchange Act of 1934	12 CFR Part 11	12 CFR 208.36 [Reg. H]	12 CFR Part 335	12 CFR Part 563d	
Securities Offerings	12 CFR Part 16			12 CFR Part 563g	
OCC Regulations					
Municipal Securities Dealer Activities of Banks	12 CFR Part 10				
Board Regulations					
Credit by Banks and Persons Other than Brokers or Dealers for the Purpose of Purchasing or Carrying Margin Stock	12 CFR Part 221 [Reg. U]	12 CFR Part 221 [Reg. U]	12 CFR Part 221 [Reg. U]	12 CFR Part 221 [Reg. U]	12 CFR Part 221 [Reg. U] ----- 12 CFR Part 221 [Reg. U]

Subject	National Banks	State Member Banks	State Non-Member Banks	Thrifts	Holding Companies Bank ⁴ ----- Thrift
Securities (continued)					
OTS Regulations					
Accounting Requirements/Financial Statements				12 CFR Part 563c	
Proxies				12 CFR Part 569	
Rules on the Issuance and Sale of Institution Securities				12 CFR 563.5; 12 CFR Part 563, Subpart C	

Dated: January 13, 2005.

Julie L. Williams,

Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System on January 26, 2005.

Jennifer J. Johnson,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, this 18th day of January, 2005.

Robert E. Feldman,

Executive Secretary.

Dated: January 25, 2005.

James E. Gilleran,

Director, Office of Thrift Supervision.

[FR Doc. 05-2079 Filed 2-2-05; 8:45 am]

BILLING CODE 4810-33-C; 6210-01-C; 6714-01-C; 6720-01-C

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038-AC15

Investment of Customer Funds and Record of Investments

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend its regulations regarding investment of customer funds and related recordkeeping requirements. The proposed amendments address

standards for investing in instruments with embedded derivatives, requirements for adjustable rate securities (including auction rate securities), concentration limits on reverse repurchase agreements ("reverse repos"), transactions by futures commission merchants ("FCMs") that are also registered as securities broker-dealers ("FCM/BDs"), rating standards and registration requirement for money market mutual funds ("MMMFs"), auditability standard for investment records, and certain technical changes. Among those technical changes is an amendment to the Commission's recordkeeping rules in connection with repurchase agreements ("repos") and proposed transactions by FCM/BDs.

DATES: Comments must be received on or before March 7, 2005.

ADDRESSES: Comments on the proposed amendments should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418-5521, by e-mail to secretary@cftc.gov, or electronically by accessing <http://www.regulations.gov>. Reference should be made to "Proposed Amendments to Rule 1.25."

FOR FURTHER INFORMATION CONTACT:

Phyllis P. Dietz, Special Counsel, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone (202) 418-5430.

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